

ORDINANCE NO. 290

AN ORDINANCE TO BE ENTITLED:

An ordinance granting to West Florida Natural Gas Company, a Florida corporation, its successors and assigns, the right and franchise to maintain and operate a gas distribution system for natural gas, in the City of Springfield In Bay County, Florida, and to construct, maintain, operate and extend gas distribution pipe lines in the streets and public places of said city and providing the terms and conditions of such grant.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF SPRINGFIELD IN BAY COUNTY, FLORIDA:

SECTION 1: In consideration of the benefits that will accrue to the City of Springfield in Bay County, Florida, and the inhabitants thereof, West Florida Natural Gas Company, a Florida corporation under the laws of the state of Florida, its successors and assigns, hereinafter sometimes referred to as the "grantee", is hereby given, granted and vested with the right, authority, easement, privilege and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate and conduct in said City of Springfield, Florida, distribution of natural gas for all purposes whatsoever.

SECTION 2: The said grantee, its successors and assigns, is hereby given, granted and vested with the right, authority, easement, privilege and franchise to construct, erect, install, extend, renew, repair, maintain, operate and conduct in said City of Springfield, Florida, a natural gas distribution system of pipe lines, fittings, meters, and appurtenances, without limitation, necessary or desirable to the distribution or sale of natural gas, for all purposes whatsoever, in, over, under, along, upon and across all streets, avenues, alleys, ways, bridges and public places in said City of Springfield In Bay County, as they now exist or as they may hereafter be laid out or extended within the present and future limits of said city, together with the further right, privilege and franchise to construct, erect, install, extend, renew, repair, maintain and operate a gas distribution system of pipe lines, fittings, meters, and appurtenances, without limitation, necessary or desirable to the and distribution within,

unto, through, over and beyond said City of Springfield, and to the furnishing, supplying and distributing to said City of Springfield and to the inhabitants and corporations, both within and beyond the limits thereof, of natural gas for lighting, heating, cooking, refrigeration, power and all other purposes for which gas may be used now or hereafter, and for the purpose of extending its pipe lines and furnishing gas beyond the limits of said city.

SECTION 3: As a further consideration for the granting of the rights, privileges and franchises granted hereby, the grantee, its successors and assigns, shall pay to the said city within thirty (30) days after the first anniversary date of this grant and within thirty (30) days after each succeeding anniversary date of this grant, an amount which, added to the amount of all taxes (other than ad valorem and excise taxes on sales payable by the public generally), licenses and other impositions and exactions levied or imposed by the said city upon grantee's property, business or operations for the preceding year, will equal five (5%) per cent from August 27, 1989 through December 31, 1989 and six (6%) per cent thereafter of grantee's revenues received from its sales of gas to customers served by its existing gas distribution system and any such systems to be hereafter constructed, according to its residential and commercial rate schedules, within the corporate limits of said city for the twelve (12) fiscal months preceding the applicable anniversary date. Such amount may be reduced from time to time by resolution of the City Commission of the City of Springfield upon appropriate notice to the grantee.

SECTION 4: The pipe lines, fittings, meters, and appurtenances shall be maintained and constructed as not to unreasonably interfere with the proper use of the streets, avenues, alleys, ways, bridges and public places in the city and shall be maintained in reasonably good condition and repair.

SECTION 5: Whenever the grantee shall cause any opening or alteration to be made in any street, avenue, alley, way, bridge or

public place of the city for the purpose of installing, maintaining, operating or repairing any pipe lines, fittings, or meters, the work shall be completed within a reasonable time and the grantee shall, upon the completion of such work, restore such portion of the streets, avenues, alleys, ways or other public places to as good condition as it was before the opening and/or alteration was so made.

SECTION 6: The grantee shall hold the city harmless from any and all liability or damages resulting from the negligence of the grantee in the construction, maintenance or operation of said pipe lines, fittings, meters and appurtenances.

SECTION 7: The grantee may, from time to time, declare, make and enforce reasonable rules and regulations as conditions for the sale and distribution by it of natural gas.

SECTION 8: In the event that the supply of gas should be interrupted or fail for any reason, without limitation, such interruption or discontinuance shall not constitute a breach of this franchise, nor shall the grantee be liable for any loss or damages by reason of such interruption or failure, however, the City of Springfield shall have the option to cancel this franchise should the grantee, without reasonable cause, fail for a period of ninety (90) consecutive days to make available to its customers the product and services contemplated by this franchise. In order to exercise this option to cancel the franchise, the City of Springfield shall give written notice of its intentions and the grantee shall have no less than sixty (60) days from the date of receiving said notice or until the expiration of the above-mentioned ninety (90) day period, whichever is later, in which to resume normal operations under this franchise.

SECTION 9: The grantee shall install and maintain, free of charge, meters for measuring gas, and shall have free access to the premises of the consumers, from time to time, for the purpose of reading, repairing and testing and maintaining the meters and appurtenances. Such meters shall remain the property of the grantee.

SECTION 10: The franchise granted by this ordinance shall exist and continue for a period of fifteen (15) years only, and as a condition precedent to the taking effect of this grant, the said City of Springfield does hereby reserve, and the grantee gives and grants to the said municipality, the right at and after the expiration of said term to purchase the pipe lines, fittings, meters and appurtenances or other property used in connection with the franchise hereby granted or such part of such property as the municipality may desire to purchase at a valuation to be fixed in accordance with the provisions of Section 180.16, Florida Statutes, and grantee by its acceptance of this ordinance shall be deemed to have granted and given the municipality such right of purchase; and the franchise granted by this ordinance is also subject to all provisions and conditions of the charter of said City of Springfield.

SECTION 11: Upon the annexation to the said City of Springfield of any territory not within any other incorporated city or town, any portion of the gas distribution system of the grantee that may be located within such annexed areas and upon the streets, alleys or public grounds thereof shall thereafter be subject to all the terms of this ordinance as though such portion were an extension made under this ordinance.

SECTION 12: Whenever in this ordinance either the City of Springfield or the grantee is named or referred to, it shall be deemed to include the respective successor, successors or assigns of either, and all rights, privileges and obligations herein conferred shall bind and inure to the benefit of such successor, successors or assigns of said city or of the grantee.

SECTION 13: This ordinance is adopted and the franchise rights and privileges herein set forth are granted pursuant to applicable laws.

SECTION 14: The grantee shall within thirty (30) days after passage of this ordinance file a written acceptance of the ordinance with the City Clerk.

SECTION 15: The effective date of this ordinance shall be the hour and day immediately following the expiration of the franchise granted to the grantee by Springfield Ordinance No. 104; both parties to the agreement intending that there be no gap between the expiration of Ordinance No. 104 and the effective date of this ordinance.

ADOPTED AND PASSED this 4 day of DECEMBER 1989.

Wendy Miller
MAYOR

ATTEST:

J. P. [Signature]
CITY CLERK

POSTED AT:

DATE:

